

REMARKS/ARGUMENTS

In response to Restriction Requirement mailed August 24, 2005, Applicants elect with traverse Group I, claims 1-8, 14-17, 21-26, 35-38, and 51-58, drawn to a method of treating cancer comprising administering an IMPDH inhibitor and an agent that inhibits a cellular process regulated by GTP or ATP. Applicants also traverse the restriction of Groups I and II.

The foregoing election is made with traverse. Applicants request that Group II, directed to *e.g.*, a composition for treating cancer comprising an IMPDH inhibitor and an agent that inhibits a cellular process regulated by GTP or ATP; and Group I directed to a method of treating cancer comprising administering an IMPDH inhibitor and an agent that inhibits a cellular process regulated by GTP or ATP, be examined together, as the required IMPDH inhibitor and agent that inhibits a cellular process regulated by GTP or ATP of Group I are also found in Group II.

Applicants also assert that, at the very least, claim 1 is a genus claim linking methods of treating cancer comprising administering an IMPDH inhibitor and an agent that inhibits a cellular process regulated by GTP or ATP and, *e.g.*, compositions for treating cancer comprising an IMPDH inhibitor and an agent that inhibits a cellular process regulated by GTP or ATP. As such, upon allowance of a linking genus claim, the restriction requirement should be withdrawn with respect to the species claims. MPEP 809.03. Applicants further note that when the requirement for restriction is predicated upon the non-allowability of a generic linking claim, Applicant is entitled to retain in the case claims to the non-elected invention. If the generic linking claim is allowed, the Examiner must then examine non-elected claims to species falling within the genus. MPEP 809.04.

Finally, restriction of an application is discretionary. A restriction requirement is made to avoid placing an undue examination burden on the Examiner and the Office. Where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. MPEP 803.01. Applicants respectfully submit that examining the claims of Groups I and II together (methods of treating cancer comprising administering an IMPDH inhibitor and an agent that

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PATENT

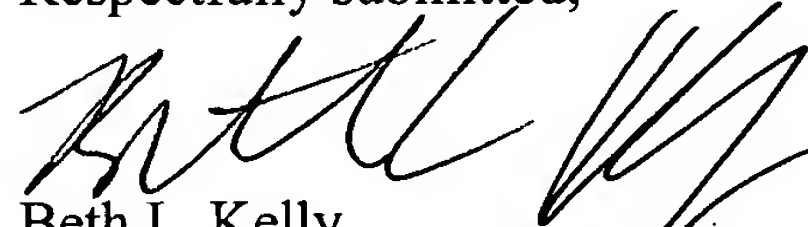
inhibits a cellular process regulated by GTP or ATP and, compositions for treating cancer comprising an IMPDH inhibitor and an agent that inhibits a cellular process regulated by GTP or ATP) would not place an undue burden on the Examiner. Applicants therefore respectfully request that the restriction requirement with respect to Groups I and II be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


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